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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,655

12/20/2005

Graham R. Purkins

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EXAMINER

JACYNA, J CASIMER

ART UNIT

PAPER NUMBER

3754

NOTIFICATION DATE

DELIVERY MODE

06/22/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com
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Office Action Summary	Application No. 10/561,655	Applicant(s) PURKINS, GRAHAM R.	
	Examiner J. Casimer Jacyna	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 9-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>040506</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3754

1. Applicant's election without traverse of group I in the reply filed on 4/7/2009 is acknowledged.

2. Claims 9-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/7/2009.

3. Figures 1a and 1b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. As stated on page 5, lines 1-2 of the specification, figures 1a and 1b are from patent 5,772,085.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 5-8, and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. 5,772,085 in view of Neff 4,522,374. Bryant discloses the prior art metering valve with seals 16, 18 substantially as claimed but does not disclose a molded sleeve. However, Neff teaches another valve stem or spool having a

Art Unit: 3754

rubber elastomeric sleeve as shown in figures 1 and 2 and disclosed in column 4, lines 17-21, with an overlying o-ring sealing element 68 for the purpose of improving the sealing properties of the valve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve of Bryant with a rubber elastomeric sleeve and overlying sealing element as, for example, taught by Neff in order to improve the sealing properties of the valve.

6. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. 5,772,085 in view of Neff 4,522,374 as applied to claim 19 above and further in view of Hoelz et al. 6,739,333. Bryant discloses a medicinal aerosol inhaler substantially as claimed but does not disclose any specific propellant. However, Hoelz teaches another aerosol inhaler having the claimed propellant mixture as disclosed on column 5, lines 1-11, for the purpose of providing a specific propellant formulation that is suitable for use in inhalers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the inhaler of Bryant with a propellant as disclosed on column 5, lines 1-11, of Hoelz in order to provide a specific propellant formulation that is suitable for use in inhalers.

7. Claims 1-8, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips 4,601,310 in view of Neff 4,522,374. As stated in the title, Phillips discloses a metering valve including a valve stem 150, Bryant discloses the prior art metering valve with seals 16, 18, a stem seal 120 and an overlying sealing element 130 substantially as claimed but does not disclose the stem seal to be a molded sleeve. However, Neff teaches another valve stem or spool having a rubber

Art Unit: 3754

elastomeric sleeve as shown in figures 1 and 2 and disclosed in column 4, lines 17-21, with an overlying o-ring sealing element 68 for the purpose of improving the sealing properties of the valve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve of Phillips with molded sleeve in lieu of o-ring 120 as, for example, taught by Neff in order to improve the sealing properties of the valve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754